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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

ZHONG ZHANG,)	
JIE MA,)	No. C 07-2754 RS
)	
Plaintiffs,)	
)	
v.)	ANSWER
)	
EMILIO T. GONZALEZ, Director of the U.S.)	
Citizenship and Immigration Services;)	
ALBERTO R. GONZALES, as Attorney General)	
of the United States;)	
MICHAEL CHERTOFF, in his Official Capacity,)	
Secretary, United States Department of Homeland)	
Security,)	
)	
Defendants.)	

Defendants hereby submit their answer to Plaintiff's Complaint for Declaratory Relief in the Nature of Mandamus.

INTRODUCTION

1. Defendants admit the allegations in Paragraph One.
2. Defendants admit the allegations in Paragraph Two.

JURISDICTION AND VENUE

3. Paragraph Three consists of Plaintiff's allegation regarding jurisdiction, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,

1 Defendants deny the allegations in this paragraph.

2 4. Defendants admit the allegations in Paragraph Four.

3 5. Defendants admit the allegations in Paragraph Five.

4 **PARTIES**

5 6. Defendants admit the allegations in Paragraph Six.

6 7. Defendants admit the allegations in Paragraph Seven.

7 8. Defendants admit the allegations in Paragraph Eight.

8 9. Defendants admit the allegations in Paragraph Nine.

9 **FACTUAL ALLEGATIONS**

10 10. Defendants are without sufficient information to admit or deny the allegations in
11 Paragraph Ten.

12 11. Defendants admit the allegations in Paragraph Eleven.

13 12. Defendants admit the allegations in Paragraph Twelve.

14 13. Defendants admit the allegations in Paragraph Thirteen.

15 14. Defendants admit the first sentence in Paragraph Fourteen; however, Defendants are
16 without sufficient information to admit or deny the remaining allegations in Paragraph Fourteen.

17 15. Defendants are without sufficient information to admit or deny the allegations in
18 Paragraph Fifteen.

19 16. Defendants are without sufficient information to admit or deny the allegations in
20 Paragraph Sixteen.

21 17. Defendants are without sufficient information to admit or deny the allegations in
22 Paragraph Seventeen.

23 18. Defendants are without sufficient information to admit deny the allegations in Paragraph
24 Eighteen.

25 19. Defendants are without sufficient information to admit deny the allegations in Paragraph
26 Nineteen.

27 20. Defendants admit the allegations in Paragraph Twenty.

28 21. Defendants admit the allegations in the first and second sentences in Paragraph Twenty-

1 One; however, the Defendants are without sufficient information to admit or deny the remaining
2 allegations.

3 22. Defendants admit the allegations in the second sentence of Paragraph Twenty-Two.

4 23. Defendants deny the allegations in Paragraph Twenty-Three.

5 24. Defendants deny the allegations in Paragraph Twenty-Four.

6 **CAUSES OF ACTION**

7 25. Defendants incorporate their responses to Paragraph One through Twenty-Four as if set
8 forth fully herein.

9 26. Defendants admit the allegations in Paragraph Twenty-Six.

10 27. Defendants deny the allegations in Paragraph Twenty-Seven.

11 28. Defendants deny the allegations in Paragraph Twenty-Eight.

12 29. Defendants admit the first sentence in Paragraph Twenty-Nine; however, Defendants deny
13 the remaining allegations.

14 30. Defendants deny the allegations in Paragraph Thirty.

15 31. Defendants deny the allegations in Paragraph Thirty-One.

16 **PRAYER**

17 32. Paragraph Thirty-Two consists of Plaintiff's prayer for relief, to which no admission or
18 denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny
19 this paragraph.

20 **FIRST AFFIRMATIVE DEFENSE**

21 Plaintiffs' complaint fails to state a claim upon which relief may be granted.

22 **SECOND AFFIRMATIVE DEFENSE**

23 The court should dismiss the complaint under Fed. R. Civ. P. 12(b)(6) because Plaintiffs
24 cannot establish that Defendants' duty to act is ministerial, that no other adequate remedy is
25 available, or that Plaintiffs have a clear right to the relief sought. *See* 28 U.S.C. § 1361.

26 WHEREFORE, Defendants pray for relief as follows:

27 That judgment be entered for Defendants and against Plaintiffs, dismissing Plaintiffs'
28 complaint with prejudice; that Plaintiffs take nothing; and that the Court grant such further relief

1 as it deems just and proper under the circumstances.

2 Dated: July 30, 2007

Respectfully submitted,

3 SCOTT N. SCHOOLS
4 United States Attorney

5 _____
6 /s/
7 ILA C. DEISS
8 Assistant United States Attorney
9 Attorneys for Defendantss